

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION X  
1200 Sixth Avenue  
Seattle, Washington 98101

IN THE MATTER OF:

Environmental Protection Agency,

Complainant,

v.

Pacific Wood Treating Corporation  
EPA ID. No. WAD0098036906,

Respondent.

RCRA Docket 1085-09-26-3008P

RESPONSE TO COMPLAINT,  
REQUEST FOR HEARING AND  
REQUEST FOR INFORMAL  
SETTLEMENT CONFERENCE

USEPA RCRA



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Pacific Wood Treating Corporation ("Respondent"), by and through its attorneys, Heller, Ehrman, White & McAuliffe, files this its response to complaint and compliance order issued by the United States Environmental Protection Agency ("EPA"), request for hearing and request for informal settlement conference, as follows:

RESPONSE TO DETERMINATIONS

1. Answering paragraph 1 of the determinations, respondent admits the allegations contained in the first sentence thereof. Respondent denies the remaining allegations of paragraph 1 for the reason that the wastes deposited at the PWT/RBT facility are not hazardous wastes.

2. Answering paragraph 2 of the determinations, respondent denies the allegations in the first sentence thereof, for the reason

1 that its Part A application was submitted to the State of Washington  
2 Department of Ecology ("WDOE"). Respondent admits such Part A ap-  
3 plication indicated its wastes were contaminated with regulated  
4 wastes D004 and K001 but denies its wastes were in fact contaminated  
5 with such substances or that its wastes were hazardous wastes.

6 3. Answering paragraph 3 of the determinations, respondent  
7 admits the allegations contained therein.

8 4. Answering paragraph 4 of the determinations, respondent  
9 denies the allegations contained therein for the reason that the  
10 wastes deposited at the PWT/RBT facility are not hazardous wastes.

11 5. Answering paragraph 5 of the determinations, respondent  
12 denies the allegations contained therein, for the reason that the  
13 closure of the PWT/RBT facility has been completed.

14 6. Answering paragraph 6 of the determinations, respondent  
15 admits the allegations contained therein.

16 7. Answering paragraph 7 of the determinations, respondent  
17 admits EPA representatives inspected the PWT/RBT facility on the  
18 dates stated therein. Respondent denies the remaining allegations  
19 in paragraph 7, for the reasons stated in the following paragraphs.

20 8. Answering paragraph 7A of the determinations, respondent  
21 admits the allegations contained therein.

22 9. Responding to paragraph 7B of the determinations, respon-  
23 dent denies the allegations contained therein, for the reason that  
24 respondent's ground-water monitoring system has been approved by  
25 both EPA and the Washington Department of Ecology ("WDOE") and re-  
26 spondent is in compliance with 40 CFR §265.91.

10. Answering paragraph 7C of the determinations, respondent denies the allegations contained therein, for the reason that respondent's ground-water monitoring sampling and analysis program has been approved by EPA and WDOE and respondent is in compliance with 40 CFR §§265.92(b) and (c).

11. Answering paragraph 7D of the determinations, respondent denies the allegations contained therein, for the reason that respondent's ground-water monitoring program has been approved by EPA and WDOE and respondent is in compliance with 40 CFR §265.93(a).

12. Answering paragraph 7E of the determinations, respondent denies the allegations contained therein for the reason that respondent has submitted a closure plan which was approved by EPA and WDOE and respondent is in compliance with 40 CFR §265.112.

13. Answering paragraph 7F of the determinations, respondent denies the allegations contained therein for the reason that respondent has submitted a post-closure plan and ground-water monitoring program which have been approved by EPA and WDOE and respondent is in compliance with 40 CFR §265.118(a)(1).

REQUEST FOR HEARING

1. Respondent hereby requests a hearing to consider: (a) the material facts set forth in the complaint which respondent has contested; (b) the appropriateness of the proposed penalty; and (c) whether respondent is entitled to judgment as a matter of law.

2. At such hearing, respondent will place in evidence facts which prove it has complied with all applicable interim regulations under the Resource Conservation and Recovery Act, including the sub-

1 mital of an adequate ground-water monitoring program which has been  
2 approved by EPA and WDOE. Respondent will further prove it has sub-  
3 mitted an adequate closure and post-closure plan, both of which have  
4 been approved by EPA and WDOE. On the basis of this evidence, re-  
5 spondent will show the compliance order to be invalid and that no  
6 civil penalty is appropriate.

7 3. Respondent requests the compliance order be stayed pending  
8 such hearing.

9 REQUEST FOR INFORMAL SETTLEMENT CONFERENCE

10 Respondent further requests an informal settlement conference  
11 and that the informal settlement conference procedure be pursued  
12 simultaneously with the adjudicatory hearing procedure.

13 DATED this 1st day of November, 1985.

14 HELLER, EHRMAN, WHITE & MCAULIFFE

15  
16 By William D. Maer  
17 Ralph H. Palumbo  
18 William D. Maer  
19 Attorneys for Respondent  
20 Pacific Wood Treating  
21 Corporation  
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